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### Online literature in China

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CREATE Working Paper 2019-02 (March 2019)

# Online Literature in China

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## **Convergence or differentiation in IP protection? A case study of new models for digital film, music and e-fiction production and distribution in China**

### *An Introductory Note*

These CREATE working papers comprise three reports, Online Music in China, Online Literature in China and Online Film in China. They are part of the deliverables from the most exciting research project I have conducted in the last nearly thirty years, “Convergence or differentiation in IP protection? A case study of new models for digital film, music and e-fiction production and distribution in China”.<sup>1</sup>

I was very fortunate to have a strong team of passionate colleagues in China and in the UK to work with me. There were two AHRC research grants - (1) the AHRC China Digital Copyright Centre and Newton Fund (RGS 116357) and (2) the RCUK Research Centre for Copyright and New Business Models in the Creative Economy (CREATE) (AH/K000179/1) that enabled us to conduct the field investigation in China during the period from December 2015 to April 2017.

To describe the research as “the most exciting project” is not, to whichever extent, an overstatement. While testing the interests of local players to the research topic for preparing the research proposal, we had already had some understandings for interview with potential respondents from Internet intermediaries and IP professionals in China. Our original plan proposed in the research application was to have around 35 semi-structured interviews with Internet business platforms, IP practitioners, government officials and academics, which finally ended with the number up to 59. If including informal conversations with friends, relatives and taxi drivers, and also with the interviewed respondents on other occasions such

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<sup>1</sup> For details of the research method adopted for this project, please see our paper Shen, Xiaobai, Williams, R., Zheng, Z., Liu, Y., Gerst, M. (2019) ‘Digital online music in China – A “laboratory” for business experiment’, published in *Technological Forecasting and Social Change*, Volume 139, February 2019, Pages 235-249. A pre-print is available in this CREATE working paper series.

as at a casual dinner table, WeChat<sup>2</sup> conversation platform, etc. the number would be lot higher.

During the process of the project, to share our interview results, we created a shared folder in Jianguoyun.com, which offers similar functions as those of Dropbox.<sup>3</sup> Team members were able to view each other's interview notes and listen to voice recordings. Regular research meetings were held during my (PI) field trips in China. Otherwise, using WeChat's group conference feature, we met online discussing various issues. What did inspire and impel us the most during our investigation were the outpouring of fresh new materials, which amazed us with the constant changes taking place in China. According to the research plan, we should have stopped the field work at the end of September 2016. However, we could not and did not close the investigation until the end of the project. There are still materials un-transcribed, and they are not included in the reports.

The three reports are composed following the template, which, resulted from the team consensus, consists of main components as follows:

- 1) the background that helps understanding the Chinese contexts and the development of music, literature or film, since digital technology became available;
- 2) the cases that illustrate emerging online services provided by internet giants, especially the so-called BAT (Baidu, Alibaba, Tencent), inclusive of everything about the dynamics in the field, new or old models, from production to distribution/consumption;
- 3) the changes and the development of the IP protection regime, its role in contributing or constraining the evolution of the Chinese creative cultural sector;
- 4) the challenges and/or potential trends.

Our team members residing in China took on the tasks of compiling the reports. The part - Online Music in China was drafted by Yixiao Li and completed by Shufeng Zheng; Yixiao

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<sup>2</sup> WeChat is a Chinese multi-purpose messaging and social media app operated by Tencent.

<sup>3</sup> Dropbox is not available in China.

Li<sup>4</sup> was also the author of *Online Literature in China*; Martina Gerst<sup>5</sup> is the author of *Online Film in China*. Both Yixiao Li and Shufeng Zheng<sup>6</sup> were the post-graduate students of Professor Yinliang Liu, also our team member, in Peking University Law School. Martina Gerst graduated from the University of Edinburgh with a PhD having worked in China for many years being affiliated with Tsinghua University Business School. As each author came from their own educational, disciplinary and cultural backgrounds, readers may still detect somewhat different stances, perspectives and lenses deployed in the papers even after moderation during the circulation amongst the team members.

For those who are interested in the Chinese online business services offered for film, music and literature production and distribution, the most interesting readings provided by the reports are the details, manifests, phenomenon, and activities which were taking place in China at that time and the social space. Some of these activities are seemingly the copy of the others in the US and Europe, albeit, tracing the strings of the development during the process shows how they have been shaped and moulded particularly by the players within the social and material contexts in China. The details reflect vividly a different philosophy and the cultural and socialist tradition of China, which once guided and is perhaps still dominating the guiding principle of the state in developing the music, literature and film sectors.

Although in each report, the music, or literature, or film sector is referred to as an “industry”, they are not an “industry” with the production and distribution for commerce and profit-making businesses, in the sense of market economies in the developed world. Music, literature and films (because of modern technology) in China’s past were associated with entertainment for the general public, and/or later on, the arts since the introduction of Western systems of music, literature and film education.

Before the economic reforms, China did not have separate music, literature, and film industries. If we regard them as a system, then it was the system of culture, being created and supported by the state to serve the society. In socialist China, the whole purposes of the

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<sup>4</sup> Dr Yixiao Li is now Legal Counsel, at Beijing Life Insurance Company.

<sup>5</sup> Dr Martina Gerst, Senior Manager at BMW Financial Service in Beijing.

<sup>6</sup> Shufeng Zhen, a PhD student in Peking University Law School

system of culture including music, literature and film were nothing but to reflect peoples' lives while to create content that would uplift peoples' spirit for constructing socialist China through entertainment. It is unlike North America and Western Europe where the markets for music, literature and film have long been established forming the individual industries for business players to compete for domination and pursue economic gains. For example, there have been big labels dominating the music industry, and Hollywood (the nexus) in movies, which are entrenched in these industries even today operating solely for commercial purposes. One may wonder whether these are the features of cultural creativity, distinctive from other human activities of our societies.

One may find interesting to see the different dynamics in China in comparison with North America and Europe. Instead of the record companies and publishers like big labels, in the Chinese online creative cultural sector, the dominance is held by the internet intermediaries, such as BAT. With their integrated service platforms (for details, please see Shen et al. 2018)<sup>7</sup>, their economic pursuits have become highly diversified through a wide range of business channels. For example, the music services are merely one type of the services, like literature, film, e-commerce, e-payment, and other services, which are vertically and horizontally integrated enhancing each other operating through various cross-over values chains simultaneously on the cross-platform business infrastructures. The reports of Online Literature in China and Online Music in China would be an interesting read, which provides many detailed cases on points.

For those who are interested in the IP development in China, the report – Online Film in China provides a systematic overview of the changes in copyright protection in China. It describes an arduous process, from China's desire initially to placate international trading partners under pressure from the US administration and international organisations, to the recent complex stance having domestic industries' self-interests in mind in pursuing economic goals. Many readers may find more comfortable to identify themselves with the

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<sup>7</sup> See note 1.

position of Priest,<sup>8</sup> who expects the IP protection in China would follow suit that of in the US. With the process unfolding, Chinese key players would eventually see sense for strong protection of IP. From that lens, the paper shows how the Chinese government has made efforts to improve the IP protection legal services and enforcement mechanisms providing not only regulations but also detailed guidelines to ensure the interests of the right holders are protected in the entertainment industry. Despite this, the paper reminds us of the reality of the distinctive Chinese characteristics that are deeply rooted and cannot be ignored. In the Chinese tradition, the contents of cultural creativity are regarded as “a common cultural heritage” of the society. With socialist core ideology, the public interest takes high priority. One shall wait and see how the development in the online creative culture sector and the IP protection in China is to keep the balance between different interests.

Back to the question, “convergence or differentiation” that this research set out to seek the answer, hopefully, different readers will find the answers of their favourite. However, as discussed in Online Music in China, the problems encountered in online music to keep the balance between the interests of private and the public are not resolvable in the frame of the current IP protection regime. The relation between the developments of online business models in the creative culture sector and the IP protection in China is unequivocal, closely connected, which is illustrated vividly in these reports. The latter has always served as a barometer of the political and trade relations between China and the US, which is not the place to find the “convergence”.

We know, the IP protection regime based on the conception of “intellectual property” was derived in the West and was later introduced to China<sup>9</sup> especially in the recent past. In this distant new environment, it is, at best, a “tool” with the utilities defined by the West, however it is up for Chinese users to explore. In today’s globalisation and in the digital age, where

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<sup>8</sup> Priest E. (2008) Why Emerging Business Models and Not Copyright Law Are the Key to Monetising Content Online, in Fitzgerald, B. Et al (2008) Copyright Law, Digital Content and the Internet in Asia-Pacific. Sydney University Press: Sydney. For further references, see the report: Online Film in China.

<sup>9</sup> Alford, W. P. (1995) To Steal a Book Is an Elegant Offense. Stanford: Stanford University Press.

emerges a set of new norms for the connected society<sup>10</sup>, the current IP regime at home in the developed world is facing challenges. China is rendered different, with its tradition and past, from the West and has become an exciting place for studying, not only the development of the IP regime with its Chinese flavours, but also the rapidly changing creative cultural sector built on its distinctive digital cross-platform infrastructures.

After completing the project, we have also published a journal paper “Digital online music in China - a laboratory for business experiment”.<sup>11</sup> The paper focuses mainly on online music, most case materials of which can be found in the three reports. There are also additional data collected after the project through personal contacts in China that were established during the fieldwork. For convenience, the paper was written by the team members, Xiaobai Shen and Robin Williams, in the UK, which may inevitably reflect their viewpoints. These reports have not been published until now. For this, we have to thank the director of CREATE, Professor Martin Kretschmer, and his colleagues in the University of Glasgow for their encouragement. The reports were edited for the CREATE working paper series by Dr Inge Sørensen and Amy Thomas.

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<sup>10</sup> Castells, M. (1996) *The Rise of the Network Society. The Information Age: Economy, Society and Culture* Vol. I, 2nd ed. 2000. Oxford: Blackwell.

<sup>11</sup> See note 1.





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## Online Literature in China

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## A brief introduction to the Internet Literature industry

Online literature is very popular in China today. There, online literature can roughly be divided into two parts. First, there is the literature written by ordinary writers and posted directly on the Internet. Second, there are digitalized versions of existing literature, which are digitalized from traditionally published and printed books. Many books are made into PDF versions or other kinds of digital versions for mobile phones, Kindles, and other reading devices. Many people want to read digitalized copies of printed books simply because the storage devices are much smaller than paper books, and are much easier to be taken everywhere, or because they are more eco-friendly.

In this report, we will mainly discuss the first kind of literature, and call it “internet literature”. Internet literature works are published and printed as paper books after they become very popular, but in this report, we categorize all the works that are firstly released on the Internet as “internet literature”.

Internet literature in China started in the early 1990s and boomed in the last decade. There are many websites and apps providing Internet literature reading services. Qidian (起点中文网, [www.qidian.com](http://www.qidian.com)), Rongshuxia (榕树下, [www.rongshuxia.com](http://www.rongshuxia.com)), and Jinjiang Literature City (晋江文学城, [www.jjwxc.net](http://www.jjwxc.net)) are all famous Internet literature websites. Most of the websites are focused on Chinese readers, so they don't have an English version, and most of them do not even have an English name. Along with the development of mobile reading, apps for mobile phones are more and more popular. Many websites have both web pages and apps, with some only developing apps. It's also noteworthy that some websites and apps are focused on original works, while some provide both Internet literature works and digitalized versions of published works; others only provide digitalized versions of published works.

According to iResearch, the number of PC online literature monthly unique visitors in Mainland China in December 2015 was about 141 million, and the mobile app readers was about 148 million. Unique visitors per day from mobile apps are about two times more than that of PC versions, about 32.975 million. As to reading time per month, the

time spent on mobile apps is about 803 million hours, and on PCs 162 million hours, with figures continuing to grow.<sup>1</sup>

## Historical development of Internet Literature

### Early stages

Internet literature is developing alongside Internet technologies. Internet literature started from the domain name “.cn”, where in the mid-1990s, some students studying abroad began to use Chinese to write on the Internet. An overseas Chinese poem communication site was established by Wang Xiaofei (王笑飞), a Chinese student studying abroad in 1991. China News Digest (华夏文摘), the first Chinese digital magazine in the world, was set up in the same year. In 1993, Chinese overseas established ait. Chinese. text (ACT) at USENET. ACT started using Chinese to broadcast news in the international network and laid the foundation for the development of the international Chinese network. Then, New Treads (新语丝), Olive Tree (橄榄树) and other websites for Chinese literature were born in late 1990s.<sup>2</sup>

In 1998, *The First Close Contact* (第一次亲密接触) started to be serialized online, and it caused a sensation in the Chinese-speaking world. *The First Close Contact* was written by Pizicai (痞子蔡), real name Tsai Chih-heng (蔡智恒), a writer from Taiwan. The heroine Qingwufei yang (轻舞飞扬) became a famous character on the Internet, and many girls used this as their network ID. In Mainland China, there were *The Sky of Fate* (缘分的天空) by Ning Caishen (宁财神), *Goodbye, Wei'an* (告别薇安) by

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<sup>1</sup> iResearch (2016) 2016 Online Literature Industry Report. [online] available at: <http://www.iresearch.com.cn/report/2540.html> [last accessed June 2nd, 2017].

<sup>2</sup> 马季(Ji Ma) (2008) *The Writing in the Screen-reading Era*, China Workers Press, pp.1-2.(《读屏时代的写作：网络文学 10 年史》，中国工人出版社，2008 年，第 1-2 页).

Annebaby (安妮宝贝), and *Love Lost in between Network and Reality* (迷失在网络与现实之间的爱情) by Li Xunhuan (李寻欢). Researchers call them the first generation of Internet literature writers.<sup>3</sup> Many of their works are about modern city life. The leaders of the second generation are Jinhezai (今何在) - the author of *Wu Kong Biography* (悟空传), Ningken (宁肯) – the author of *The Covered City* (蒙面之城), and Murong Xuecun (慕容雪村) – the author of *Please Forget Me Tonight, Chengdu* (成都, 今夜请将我遗忘). These works are more focused on the reflection on life and human nature.

### **New developments**

In the last five years, the third generation of Internet literature writers have found more topics to write upon. For example, fantasy novels – mostly *kongfu* stories mixed with fairy tales are very popular - and *Zhuxian* (诛仙) by Xiaoding (萧鼎) is an outstanding example. Horror fictions like grave robbing stories are also very popular. *Ghost Blows* (鬼吹灯) by Tianxiabachang (天下霸唱) and *The Lost Tomb* (盗墓笔记) by Naipaisanshu (南派三叔) are also typical examples. And of course, there are many other types, like modern city life, campus life, science fiction, history, etc. Internet literature actually contains all kinds of literature, including novels, poems, essays and so on.

### **Known websites and apps**

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<sup>3</sup> 徐刚(Gang Xu) (2010), The Development and Research Status of the Online Literature, Chongqing Social Science, 04, pp59-62( 网络文学的发展与研究现状[J]. 重庆社会科学,2010,04:59-62).

There are many different websites and apps, of which the famous ones are Qidian (起点中文网, [www.qidian.com](http://www.qidian.com)), Jinjiang Literature City (晋江文学城, [www.jjwxc.net](http://www.jjwxc.net)), Rongshuxia (榕树下, [www.rongshuxia.com](http://www.rongshuxia.com)) and the app iReader. Many of these famous websites or apps are now affiliated with Baidu, Alibaba and Tencent (BAT). Jinjiang Literature<sup>4</sup> and iReader are two of the few ones that haven't been acquired by BAT.<sup>5</sup>

In July 2013, Baidu acquired the shares of Zongheng Chinese (纵横中文网, [www.zongheng.com](http://www.zongheng.com)) website from Perfect World (完美世界, [www.wanmei.com](http://www.wanmei.com)) at the price of 19.15 million RMB yuan. Zongheng Chinese and the app - Panda Reading (熊猫看书, <http://xm.91.com>), which was acquired at the price of 1.9 billion USD, compose the main part of Baidu Literature.<sup>6</sup>

In January 2015, Shengda Literature and Tencent literature merged to establish CRL. Many famous Internet literature websites, which were respectively operated by Shengda Literature and Tencent literature, are owned by CRL. For example, Qidian, Rongshuxia, and Xiaoxiangshuyuan (潇湘书院, <http://www.xxsy.net>) all belong to CRL.

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<sup>4</sup> Author Unknown (2015) The China Reading Limited Has Officially Been Established, and the Internal Email of Wu Wenhua Quoted "Most" for Multiple Times (阅文集团正式挂牌 吴文辉内部邮件多处引用“最”字), [online] available at: [http://finance.ifeng.com/a/20150317/13558328\\_0.shtml](http://finance.ifeng.com/a/20150317/13558328_0.shtml) [last accessed June 2nd 2017].

<sup>5</sup> Most mobile phone apps are only for reading and are quite similar to the reading parts of websites for PC, so they will not be introduced separately in this part. However, in the third part of this report, we will discuss mobile reading.

<sup>6</sup> China News (2014) Baidu Literature Has Been Established and It Intends to Integrate Its IP Resources and Fight with Tencent(百度文学成立 欲整合 IP 与腾讯争天下) [online] available at: <http://finance.chinanews.com/it/2014/11-28/6824319.shtml> [last accessed June 2nd 2017].

In April 2015, Alibaba Literature was established by the mobile business group of Alibaba. Alibaba Literature together with the Shuqi Novel (书旗小说) website, UC Book (UC 书城) for mobile phones, has become the main part of the Alibaba mobile reading business.<sup>7</sup>

Since the operation modes of these websites and apps are quite similar, this report will only take Qidian as an example to illustrate their operation and will mention other websites' systems if they are different from those of Qidian.

### **Qidian.com**

Qidian (起点中文网, [www.qidian.com](http://www.qidian.com)) was established in May 2002. It is now the biggest Internet literature website in China, affiliated to China Reading Limited (阅文集团, CRL), a Tencent company.

Qidian developed “online charging”, a reading service in October 2003, and became a pioneer in finding a profit-making model for Internet literature. After that, Qidian brought up the system for writers' welfare, author-reader communication, content development and promotion, and copyright development. Qidian has set the standard for Internet literature websites. It has established a complete digital publishing system, with creative writing, writers' cultivation and a sales system. And it is now cooperating with first-class Chinese companies in the fields of games, films and paper book publishing. It has both websites for PCs and apps for mobile phones. The works in Qidian always stay at the top of Internet literature top lists. As the biggest Internet literature website, Qidian has all kinds of works for different readers, such as fantasies, modern city life,

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<sup>7</sup> QQ Tech (2015) Alibaba Has Announced the Establishment of Alibaba Literature, Which Will be in Charge of Producing Content and Introducing Cooperation (阿里宣布成立阿里文学 负责内容生产和合作引入) [online] available at: <http://tech.qq.com/a/20150423/034792.htm> [last accessed June 2nd 2017].



history, military, games, supernatural, science fiction, etc. Qidian established Qidian MM (起点女生网, [www.qdmm.com](http://www.qdmm.com)) in November 2009, which was originally the “Girls Channel of Qidian”. Qidian MM focuses on female readers, and owns the copyright of *Startling by Each Step* (步步惊心), *Search* (搜索), *Duyanzhi* (毒胭脂) and many other popular novels.<sup>8</sup> Users of Qidian can use the website following the steps and rules below.

## **1. For writers**

### **1) The steps to become a writer**

To become a writer, an account on Shengda (盛大通行证) should be applied for. Using this account, applicants thereafter should register as a writer in Qidian. The provision of a pen name and real personal information is required. The author should also agree to the Authors’ Agreement. After that, the author should choose the type of work, whether it’s a novel or poem or cartoon, and then choose the website that the author wants to upload the works on (Qidian or Qidian MM or other websites affiliated to Qidian). After completing the name of the works and other information, the author can upload chapters to the website.

The first uploaded part should be about 3000 words, and the editors of the website will examine this part and confirm a new writing column for the new author within 48 hours. Passing this examination means that the author has officially become a writer in Qidian.

### **2) The Type of Authorization**

For copyright issues, the writers in Qidian should choose the type of authorization after opening a column for one piece of writing. The types to be chosen are:

- Exclusive works (专属作品): “I guarantee that I’m the legal author of this piece of writing, and ensure that it is firstly released in Qidian and the websites and

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<sup>8</sup> Summarized according to the introduction in the official website, Qidian (date unknown) Introduction [online] available at: <http://www.qidian.com/about/intro> [last accessed June 2nd 2017].

media cooperating with Qidian. I agree to authorize Qidian as the exclusive issuer of this piece of writing. I guarantee that I will not submit this piece of writing to other media for publication. Qidian will be in charge of release, reprint, recommendation and all other issues of this piece of writing.”

- Onsite works (驻站作品): “I guarantee that I’m the legal author of this piece of writing. I agree to release this piece of writing in Qidian and the websites and media cooperating with Qidian and assure to update it in Qidian. Without the consent of Qidian or me, other media should not reprint this piece of writing.”
- Authorized works (授权作品): “I guarantee that I’m the legal author of this piece of writing. I agree to release this piece of writing in Qidian and the websites and media cooperating with Qidian. Without my consent, Qidian should not recommend it to other media, and other media should not reprint this piece of writing.”

### 3) Income of the Writers

The income of the writers consists of several different parts, such as subscription in Qidian or from other platforms like China Mobile Communication Corporation (CMCC). Some rewards are available from the website for good or diligent work, and readers’ tips by means of Qidian Yuan (a digital currency in the website). However, all of these incomes are actually quite low, since reading on these websites is really cheap. As such, the writers need to rely on a signed works system.

### 4) Signed Works System (签约作品制度)<sup>9</sup>

After opening a column, the writers can apply to sign a contract with Qidian if they meet with the following requirements:

- The piece of writing is published or unpublished, and the writer has the solo right of communication through information network.

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<sup>9</sup> Qidian (date unknown) Registration and login [online] available at: <http://www.ploy.qidian.com/HelpCenter/default.aspx?type=0&categoryid=58&parentid=53> [last accessed June 2nd 2017].

- The writing should contain more than 100,000 words (except poems or essays or works that have been completed)
- The writing should not violate laws and regulations. The writing should be written by the author independently and should pass the examination of Qidian.

The payment will depend on the different kinds of signed works. The highest writers' payment can be 100 RMB yuan per 1000 words. Qidian can also help with publishing paper books. If the writer chooses not to sign a contract with Qidian, it's deemed that the writer agrees to not get paid. From our interviews, we got to know that other websites use similar systems to attract writers.

## **2. For readers**

The reader should also firstly obtain an ID. After that, the reader can choose any piece of writing in Qidian and begin to read. After several chapters, the readers need to pay for the next chapters and such chapters are labelled "VIP". Readers can top-up their account with Alipay, UnionPay, Wechat Pay, or many other kinds of payment tools. Ten RMB Yuan equals to 1000 Qidian Yuan. For ordinary users, the price for reading 1000 words in VIP chapters is five Qidian Yuan, i.e. 0.05 RMB Yuan, which is very cheap.

If the readers spend money up to a certain amount, their accounts may become junior VIP or senior VIP, meaning they can pay even less to read. Other websites like Rongshuxia provide whole piece subscription service. In Rongshuxia, the readers can use Alipay or online banks to top-up the account. One RMB yuan equals to 100 gold leaves. The readers can use the gold leaves to subscribe to books in the website. The subscription of one long novel is about 500 gold leaves, equal to five RMB yuan, which is also very cheap.

The readers can choose to read online or download the works to their PC or mobile phones. The downloaded version will of course charge for VIP chapters. Readers can communicate with the writers and tip them on each page. As such, maybe the writers will write according to the readers' wishes.

## **The China Written Works Copyright Society (CWWCS)**

The CWWCS (中国文字著作权协会), which was founded on October 24, 2008, is the sole copyright collective management organization in written works fields in China. It is a non-profit organization approved by the National Copyright Administration of China (NCAC) and the Ministry of Civil Affairs of the People's Republic of China (MCA). The NCAC has awarded the "Collective Management of Copyright License" to CWWCS. CWWCS was co-sponsored by 12 institutions and organizations and more than 500 well-known Chinese copyright owners in various fields. These 12 institutions and organizations include: the Chinese Writers' Association; the Development Research Centre of the State Council; China Federation of Literary and Art Circles; the All-China Journalists Association; the Chinese Academy of Sciences; Chinese Academy of Engineering; Chinese Academy of Social Sciences, and; the China Association of Science and Technology. All of these organizations have gathered many copyright holders.

The CWWCS manages the right of performance, projection, broadcasting, dissemination through information network, reproduction, compilation, etc. It signs contracts with the copyright user and institutes legal proceedings against the infringers. As the only statutory body, it also collects and distributes the remuneration of written works reused under "statutory license" by newspapers, periodicals, textbooks, etc. CWWCS brought several cases against infringers on behalf of copyright holders.

### **Emergence of big online players**

There have been many new developments in the last five years. The most important developments are mergers and acquisitions in the market; Internet companies are experimenting with new business models, creating a new value chain – literature, music, movies and games, and mobile reading.

## **Mergers and Acquisitions (M&A)**

Big companies like BAT all want their own literature business. They want to take part in this field for the following reasons:

- Though literature is not profitable on its own, it's the origin and basic part of the Internet content industry chain. The Internet content industry includes literature, videos, movies, cartoons, games, etc. Movies, cartoons and games are all based on good stories.
- It's still a time of warring states, and the big companies all want to make their business scale as large as possible. BAT all want to operate as a comprehensive entertainment industry to build an empire.
- By gathering people's appetite for reading, it's easier to know what people like today, and to grasp their social needs.

The popularity of websites requires time and a lot of primary investment. Thus, it's much easier to acquire companies that are mature and have already got shares in the market rather than starting a new one. As mentioned before, there are many M&A cases in the Internet literature industry over the last five years. Below, we discuss the cases of BAT.

## **Tencent**

Tencent set foot in Internet literature many years ago. Its literature branch – Tencent Literature - was established in September 2013 and began to operate as an independent subsidiary. Tencent Literature was a part of Tencent Interactive Entertainment (腾讯互娱). As is reported, Tencent Literature cooperated with many other platforms and developed many high-quality works in different ways, like publishing, games,

cartoons, movies, TV dramas, music and derivative products. It made breakthroughs in content, users and income in a short time.<sup>10</sup>

In January 2015, Tencent acquired Shengda Literature, and established CRL. CRL is now the giant in the Chinese Internet literature market. Many famous Internet literature websites, which were respectively operated by Shengda Literature and Tencent literature, are owned by CRL. For example, Qidian, Rongshuxia, and Xiaoxiangshuyuan(潇湘书院, <http://www.xxsy.net>) all belong to CRL. Shengda Literature was formerly affiliated to Shengda Group (盛大集团). Shengda Group failed in an Initial Public Offering (IPO) twice before the deal. It is said that the Shengda Group can focus on its Internet investment after selling its literature part. For Tencent, since it's keen to get upstream IP in the interactive entertainment industry chain, the acquisition of Shengda Literature will be a great supplement to its business.<sup>11</sup> Tencent has accomplished its Internet content empire in videos, movies, literature, cartoons, and games after the acquisition<sup>12</sup>. Since CRL has the biggest collection of original literary works, it has made Tencent's development of derivatives much easier. Tencent's other professional entertainment affiliates, like Tencent Movie+(腾讯电影+), Penguin Movie (企鹅影业), and Tencent Animation (腾讯动漫) will cooperate with CRL to make a pan-entertainment development.

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<sup>10</sup> QQ Tech (2014) Tencent Literature wil Operate Independently and Wu Wenhui, the Father of Qidian will be the CEO (腾讯文学将独立运营 前起点创始人吴文辉为 CEO), [online] available at: <http://tech.qq.com/a/20140416/012388.htm> [last accessed June 2nd 2017].

<sup>11</sup> Author Unknown (2015) Tencent and Shengda are Integating Literature Resources: Is It Hard for CRL to be the Oligopoly in the Market? (腾讯和盛大整合文学资源：阅文集团难一家独大?) [online] available at: <http://money.163.com/15/0128/04/AH157D6M00253B0H.html#from=keyscan> [last accessed June 2nd 2017]

<sup>12</sup> In China, cartoons and games are always classified as one kind, because both making cartoons and games need animation, 3D and other technologies.

CRL is now an independent subsidiary to Tencent Group, and not a part of Tencent Interactive Entertainment. Reports say that this structure makes CRL easier to go public. However, it is also said that there are many executives of the core websites affiliated to CRL, especially those affiliated to Shengda Group, who left the company in June 2016. It is said that this is because of the unbalanced interest distribution.<sup>13</sup> This incident may cause the change of operation ideas for the websites.

## **Baidu**

In July 2013, Baidu acquired the shares of Zongheng Chinese (纵横中文网, www.zongheng.com) website from Perfect World (完美世界, www.wanmei.com) for 19.15 million RMB yuan. On November 27, 2014, Baidu Literature was set up. Zongheng Chinese and the app Panda Reading (熊猫看书, <http://xm.91.com>) - which was acquired at the price of 1.9 billion USD - compose the main part of Baidu Literature.<sup>14</sup> Baidu Literature also aims at building a complete industry chain around the original literary works, with cartoons, games, movies, and TV dramas as well as derivative products.

The business of Baidu Literature divides into two parts, namely the original literature part (Zongheng Chinese, 纵横中文网), and the content distribution part (Baidu Book, 百度书城). It is claimed that the copyright of original novels will be the core of Baidu

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<sup>13</sup> 雷建平( Jianping Lei) (2016) There are Internal Crisis in the CRL: Several CEOs in Its Subsidiaries

Wants to Leave (阅文集团起内乱：旗下多家子公司 CEO 集体闹离职), [online] available at:

<http://skylei.baijia.baidu.com/article/502526> [last accessed June 2nd 2017].

<sup>14</sup> China News (2014) Baidu Literature Has Been Established and It Intends to Integrate Its IP Resources and Fight with Tencent (百度文学成立 欲整合 IP 与腾讯争天下) [online] available at:

<http://finance.chinanews.com/it/2014/11-28/6824319.shtml> [last accessed June 2nd 2017].

Literature, which will rely on the content distribution and other online resources of Baidu to build a whole literature industry economy.<sup>15</sup>

### **Alibaba**

In April 2015, Alibaba Literature was established by the mobile business group Alibaba. Alibaba Literature, together with the Shuqi Novel (书旗小说) website, UC Book (UC 书城) for mobile phones, has become the main part of the Alibaba mobile reading business.<sup>16</sup>

Alibaba Literature is in charge of producing content, introducing cooperation, and the double-way deriving of the copyright industry chain. It will build an open literature-related eco-system from the aspects of digital content reading, digital content distribution, copyright deriving, fan economy, etc.<sup>17</sup>

What is interesting is the statement of Zhou Yun (周运), the chief editor of Alibaba Literature:

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<sup>15</sup> Author Unknown (2014) Zhang Dongchen, The Deputy Director of Baidu: Baidu will Stick to the Way of Operating Content not Infringing Others' Rights (百度副总裁张东晨：将始终坚持正版运营路线) [online] available at: <http://game.people.com.cn/n/2014/0429/c40130-24958036.html> [last accessed June 2nd 2017].

<sup>16</sup> QQ Tech (2015) Alibaba Has Announced the Establishment of Alibaba Literature, Which Will be in Charge of Producing Content and Introducing Cooperation (阿里宣布成立阿里文学 负责内容生产和合作引入) [online] available at: <http://tech.qq.com/a/20150423/034792.htm> [last accessed June 2nd 2017].

<sup>17</sup> QQ Tech (2015) Alibaba Has Announced the Establishment of Alibaba Literature, Which Will be in Charge of Producing Content and Introducing Cooperation (阿里宣布成立阿里文学 负责内容生产和合作引入) [online] available at: <http://tech.qq.com/a/20150423/034792.htm> [last accessed June 2nd 2017].



There are no former original websites for Alibaba Literature, so it does not use the same mode as original websites. Alibaba Literature will not ask for the total control of the copyright of the works but will promote the sharing of copyright. It does not require controlling all steps of the IP industry, but want to share the cost and benefit with co-operators.

Zhou Yun mentioned that Alibaba Literature may get into a deeper cooperation with companies like Alibaba Movies (阿里影业), Enlight Media (光线传媒), and Huayi Media (华谊兄弟), and is willing to cooperate with original websites, publishing companies, cartoon companies, game developers and so on.<sup>18</sup>

According to some analysts, the websites can now roughly be divided into four groups.

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- The first group.

Qidian and Chuangshi Chinese Website (创世中文网), both affiliated to CRL which are the top websites with great influence and a large number of users and writers.

- The second group.

Zongheng of Baidu Literature and Alibaba Literature are classified into the second rank. Alibaba Literature started in early 2016, so its operation remains to be seen. Its ranking is according to the status of Alibaba Group. Other websites like 17k (www.17k.com) and iReader (掌阅) are also in this second rank.

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<sup>18</sup> QQ Tech (2015) 阿里宣布成立阿里文学 负责内容生产和合作引入 [online] available at:

<http://tech.qq.com/a/20150423/034792.htm> [last accessed June 2nd 2017].

<sup>19</sup> Author Unknown (2015) The Check of Online Literature Market in China: The CRL is the Oligopoly and the Online Game Companies are Developing Product According to the Market Needs (中国网络文学市场盘点 (2015) 阅文一家独大 游戏公司看菜下锅), [online] available at:

<http://mt.sohu.com/20151230/n433070439.shtml> [last accessed June 2nd 2017].

- The third group.

Many websites of CRL, like Xiaoxiang (潇湘书院, [www.xxsy.net](http://www.xxsy.net)), Hongxiu (红袖添香, [www.hongxiu.com](http://www.hongxiu.com)) and Yunqi (云起书院, [yunqi.qq.com](http://yunqi.qq.com)), belong to this rank. They also have a lot of active users. Jinjiang (晋江原创网), which was formerly a part of Shengda Literature but not affiliated to CRL, is also in this rank.

- The fourth group.

Other websites with less influence are in this group.

## Recent trends

### **Experimental business models and new value chains**

Chinese companies have brought up new business models reflecting Chinese users' habits and governmental supervision. For example, users are not willing to pay for content, thus Chinese companies pay a lot of money to get authorization, almost providing the works to users for free or at a very low price. They gain profits from advertising or the further development of the works (such as films). Some interviewees from Internet companies told us that they want the literature to get communicated as widely as possible. When this work becomes famous among people, subsequent films, TV dramas, games and other derivatives will become popular and very profitable.

However, in the literature works field alone, it is said that companies have a great deficit at the moment. As mentioned in the introduction of the websites, they are now promoting paid memberships in order to earn more money.

What is more important is the new value chain the industry has found - the development of what is called "Super IP", which has its origins in Internet literature.

From 2014, websites in China began to emphasize this concept. Super IP is an idea about the comprehensive development of works, especially popular novels, to make movies, TV dramas, games and merchandising articles such as mugs, notebooks, and dolls about the works. People find popular novels and convert them into TV dramas or

games. The copies can then be sold to video websites at a very high price, and Internet companies are also striving for further developments. The booming of Super IP is believed to be connected to the so-called “fan economy” meaning that the fans of the literature works, as well as the fans of the TV/film stars starring in the TV dramas or films, are willing to pay for anything that is derived from the works or features their favoured star.

As a matter of fact, Super IP is nothing new. The Mickey Mouse story of Disney can be viewed as a kind of Super IP, because there are so many derivatives from Mickey Mouse. The concept is frequently mentioned in the Chinese network industry these days and it is also an important notion for foreign researchers to explore in the Chinese online entertainment market. Thus, it is worth being talked about in the context of the Chinese market today. In our interviews, several Internet companies mentioned that regarding Super IP, they think that the strict protection of literature is not so necessary, because the further widespread development of the works may bring more profit. Of course, and meanwhile, they are still quite protective of the works that they have paid for. Recent years saw another boom in TV drama adaptations of online literature. Despite the difficulty of adapting original works, these popular novels on the Internet were screened one by one. Some enjoyed a great success while others were criticized by the audiences.

Recent examples of super IPs are:

(1) *Hua Qianggu* (花千骨)<sup>20</sup>

*Hua Qianggu* is originally a network novel written by “fresh 果果”, released on a famous Chinese online novel website, Jinjiang Literature (晋江文学城 <http://www.jjwxc.net>), in 2008. It is a story about the training and growth of a girl named *Hua Qianggu* and the love story between her and her master, *Bai Zihua*. The novel was so popular that it was

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<sup>20</sup> Author Unknown (2015) How did Zhao Liying Help *Hua Qianggu* to be Played for 10 Billion Times? (小骨赵丽颖是怎么帮助《花千骨》成为“亿元”户的), [online] available at: <http://mt.sohu.com/20150820/n419349351.shtml> [last accessed June 2nd 2017].

adapted to the TV drama *Hua Qiang*, with popular Chinese TV star Zhao Liying (赵丽颖) and Huo Jianhua (霍建华) starring in it (depicted in Figure 1 below). The TV drama was a big hit in the summer of 2015, with the number of online plays at 12 billion only nine weeks after it was released.<sup>21</sup> According to news reports, the TV maker of *Hua Qiang*, Ciwen Media, earned about 0.229 billion RMB yuan from this. Ciwen Media received 2.6 million RMB yuan from making a derivative TV drama, *the Extra Story of Hua Qiang*, with iQiyi. Moreover, both Zhao Liying and Huo Jianhua became super TV stars. The games based on *Hua Qiang* were also quite successful. All in all, the Super IP *Hua Qiang* is a great success for the many different parties participating in it. Even the New York Times reported its success on October 29, 2016.<sup>22</sup>



Figure 1: Hua Qiang

## (2) The *Tale of Zhenhuan* (甄嬛传) and the *Tale of Ruyi* (如懿传)

<sup>21</sup> Hunan TV (2015) The Number of Online Plays of Hua Qiang is More Than 12 Billion, and is a Big Hit in the Summer (《花千骨》播放破 120 亿 领跑暑期档成现象级), [online] available at: <http://zixun.hunantv.com/hntv/20150807/1618146762.html> [last accessed June 2nd 2017].

<sup>22</sup> Amy Qin (2016) Craving a Hot TV Show in China? Start Scouring the Web [online] available at: <http://www.nytimes.com/2016/10/29/arts/television/craving-a-hot-tv-show-in-china-start-scouring-the-web.html> [last accessed June 2nd, 2017].

The *Tale of Zhenhuan* was firstly a popular network novel by Liulianzi (流潋紫) and was adapted to a TV drama in 2011, with famous Chinese actress Sun Li (孙俪) acting as the heroine Zhenhuan (depicted in Figure 2). The story is about the struggle of the emperor's concubines in the imperial palace. Both the novel and the TV drama are well-known, not only in mainland China where this is number one in audience ratings, but also in Hong Kong, Taiwan and Korea. Sun Li became a first-class TV drama actress because of the TV drama's success.

The *Tale of Ruyi* is a new novel written by Liulianzi, which can be viewed as a sequel to the *Tale of Zhenhuan*. It will be adapted to a new TV drama, with famous stars Zhou Xun (周迅) and Huo Jianhua (霍建华) starring in it, which has attracted a lot of public attention ever since the adaptation and casting news was released.



Figure 2: The Tale of Zhenhuan

### (3) *The Lost Tomb* (盗墓笔记)

*The Lost Tomb* is a series of novels about grave robbery written by Nanpai Sanshu (南派三叔), and has sold more than 1 million books. It is not a network novel, but instead was adapted to an online TV drama shown only in iQiyi, with 3.099 billion plays. There are also several online games about *The Lost Tomb*.



Figure 3: The Lost Tomb

This is the first seasonal online TV series in China and the adaptation by Xu Lei is scheduled to be dramatized in eight seasons, one season for each year. The first season was released in June of 2015. The novel series of the same name is about several people's adventure in ancient tombs, and it has enjoyed a wide readership since it was released online in 2006. Accordingly, the adapted TV series had been highly anticipated by its fans but turned out to be disappointing. Although there were 24,000,000 hits on the web within the first two minutes of its debut, the season was later criticized by the audiences for its weak storyline and poor quality. Some lines of the series even became jokes on social media.

However, it seems that Super IP is gradually slowing down. For instance, Zhuxian Qingyunzhi(诛仙青云志), a TV drama that was adapted from a very popular *kongfu*-fairy tale novel, with popular TV stars like Zhao Liying (赵丽颖) and Li Yifeng (李易峰) starring, didn't get as good an audience rating as was expected. There are many factors to be taken into consideration, but the improvement of the audience's taste may be one important factor. In the past two or three years, the TV dramas adapted from popular novels have been generally well accepted by fans of the novels. Thus, hundreds of popular novels were adapted to derivatives and the term Super IP is seen every day in reports about entertainment. Nevertheless, only well-adapted ones can get a good audience rating now, which means the rational return of the market. The frantic pursuit of Super IP has resulted in a number of junk works, both in literature works and derivatives. The participants in the industry are beginning to consider the quality of the works more. This is one observation of great importance during our research.

## **Mobile reading**

Online reading is also very popular and has become more and more important as a market. Many people in big cities like Beijing may spend more than half an hour in the subway or on the bus to go to work or meet friends and need something to kill time. With the development of mobile devices, people can choose mobile reading, which is becoming more and more important these days.

It should be pointed out that mobile traffic fees are quite high in China, so people prefer to download to their local devices through Wi-Fi at home or use low-traffic-cost ways to read. For that reason, most Internet literature websites have mobile adaptable versions, which will save mobile traffic fees for the users; many of them have developed their own apps. Users may download some works through the apps meaning it will not cause mobile traffic fees when reading on the move. The apps are just as functional as the websites. Depicted in Figure 4 are the icons of the apps of Qidian, iReader and QQ reading, all of which are well accepted among readers.



Figure 4: Examples of Chinese reading Apps

Except reading apps, several companies have developed reading devices. There are many electronic devices especially made for mobile reading. Kindle, produced by Amazon, is a world-famous device. Many people in China are using Kindles to read, because it is small, has long-lasting battery power, and is easy on the eyes. Amazon has also developed Kindle apps both for iOS systems and Android systems to sell its digital books. Companies in China have developed reading devices as well. For example, JD ([www.jd.com](http://www.jd.com)), one of the biggest B2C e-platforms, developed JD Reader; iReader (掌阅) have also developed one. Both JD Reader and the iReader devices look similar to the Kindle device. In addition, both of them have apps for mobile phones. Mobile



reading is a very important market and companies want to get involved in it. The digitalized version may take the major part of the works that are provided in reading apps.

According to iResearch detailed in Figure 5 below, the unique readers of Internet literature on PC and mobile device are extremely close, with both around 160 million in Q1 2015.<sup>23</sup>

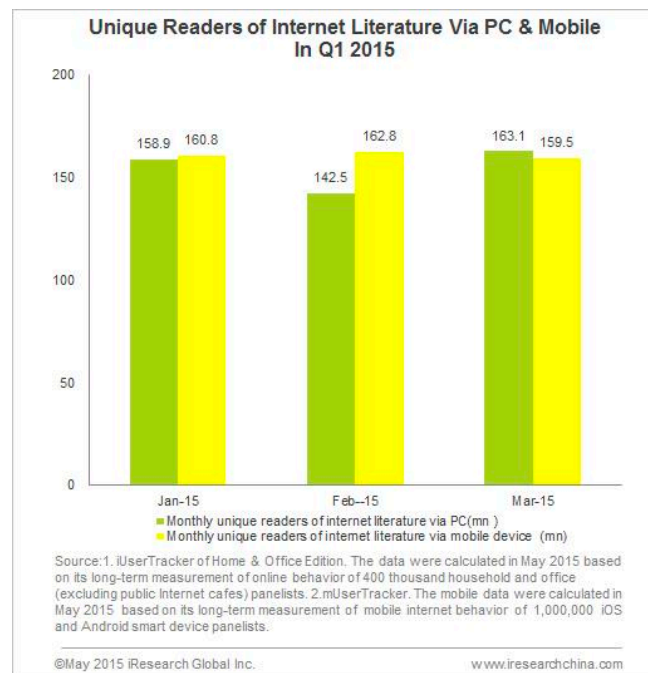


Figure 5: Readers of Internet literature in Q1 of 2015

As detailed in Figure 6 below, in Q1 2015, the monthly reading time of Internet literature via mobile devices reached about 800 million hours, while the monthly reading time via PCs was below 180 hours, much less than mobile reading time. Mobile devices have become the most important channel to read literature online because of its portability and convenience.

<sup>23</sup> iResearch (2015) China Internet Literature Runs to Mobile [online] available at: [http://www.iresearchchina.com/content/details7\\_18329.html](http://www.iresearchchina.com/content/details7_18329.html) [last accessed June 1st 2017].



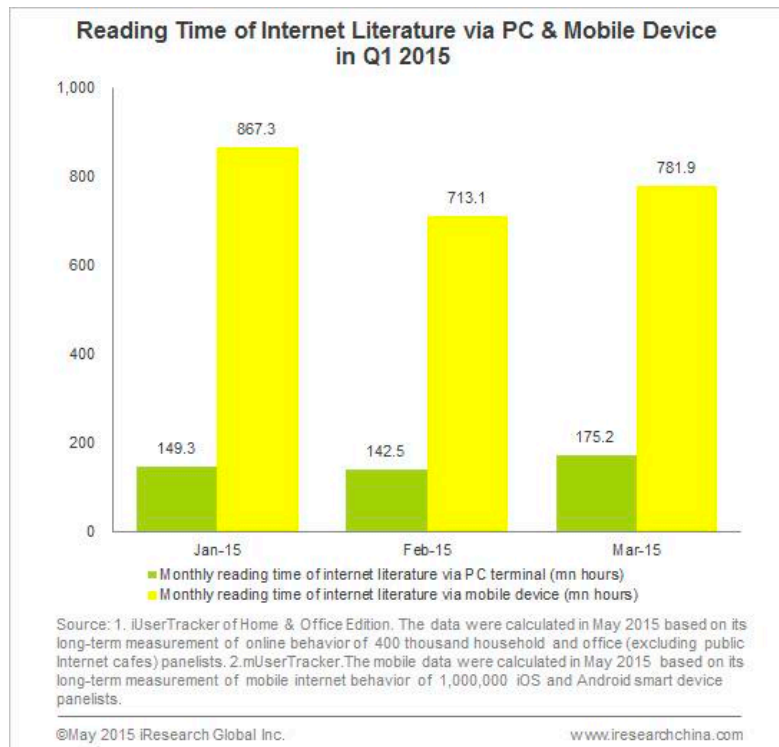


Figure 6: Reading Time of Internet Literature via PC & Mobile Device in Q1 2015

Mobile reading is the outlook of Internet literature. The great match between the features of network literature and mobile phones make mobile devices the most important channel for online literature reading. The portability of mobile phones goes along well with the features of Internet literature, such as the entertainment, fragmented reading and serial work reading.

Text, the key form of Internet literature, has low requirements for mobile Internet and the performance of mobile phones. Thus, Internet literature is the first online entertainment that has been developed and accepted by users. It is difficult to acquire pirated versions of mobile Internet literature by mobile search and downloading, and it is especially difficult to get pirated versions of some serial works.

The professional channel brings multiple effects to network literature. Professional mobile reading channels like China Mobile's CMread and China Telecom's Tyread cover huge amounts of literature and readers. They are the first ones allowing the public easy access to online literature. The professional channels can also meet the various needs of users whether male or female, or published books by content integration and subdivided reader groups.

### **Cultivating the literature industry**

As is mentioned in the introduction to the website Qidian, there are several kinds of authorization modes.

In our interviews, one Internet literature editor explained that when a work is about to get famous, they will talk to the writer to get the authorization for the right of reproduction, distribution, performance, projection, broadcasting, dissemination via information, etc. Theoretically speaking, individual agreements are based on individual negotiation. However, compared to the companies, most Internet literature authors may be in a weak bargaining position. Interviewees from Internet literature companies refused to tell us about the payment, and only confirmed that it is a case-by-case negotiation. It is very likely that the authors may not get much payment which has been confirmed by some posts at the Internet.

Websites also provide apps to help writers to organize their works. For example, Qidian provides an app called Writing Cat. It provides a service for finding sensitive words that will be blocked by supervisors on the Internet, which is very useful for writers.

There are even websites providing computer programs to help writers design the names of heroes, the description of scenes, and even the plots. These programs are mostly for fairy tales or ancient stories, because these stories need a rich description of scenes that many modern authors may not be able to describe well. An example of one of these websites is Xuanpai.com. It is very easy to write a plot with the help of these tools and is the reason why there are so many similar and nonsensical works on the Internet.

At the basis of the Super IP business chain, Internet literature is of great importance. Business operators, and every Internet giant in China (currently mostly the BAT), want their own literature database. For writers, the websites provide them convenient ways to post their works, and even good ways to make-up their works. However, their negotiation abilities may be relatively low. For readers, there are many websites to choose from and many works to be read. They can usually read the works for free or pay a

small subscription fee. Mobile reading has becoming more and more important in people's daily life.

### The Challenges

Online literature has become part of the mainstream in modern literature in China. The pace of propagation has accelerated, and the space has also expanded greatly. Excellent literature works can be distributed widely in a few seconds. The public can involve themselves in the online literature creating process, and almost all Internet users can read, write, and publish a variety of literary works. As a result, the quality of online literary works can no longer be guaranteed. There are also many problems faced by Internet literature, such as content problems, piracy, contract payment issues, supervisory review problems, etc.

### **Network piracy**

The cost of publication and distribution declines dramatically with the development of the Internet. Since the cost is very small compared with paper publishing, a lot of unauthorized distributions of online literature take place on the Internet and can damage the copyright owners' benefit. Unlike movies or music, Internet literature can be illegally reposted on another website in just a few seconds. According to a White Paper, sites like bulletin board systems (BBSs), download websites or cloud services account for more than 50 percent of traffic for pirated novels. Of these three, 64.3 percent of traffic is on BBS sites, making them the main means to spread pirated works.<sup>24</sup>

In September 2010, Shengda Literature Co., Ltd. reported to Xuzhou Municipal Copyright Bureau that the Novel 520 website used technological means to collect and copy a large number of literary works from the Shengda website without permission,

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<sup>24</sup> Global Times (2016) China increasing protection of Internet literature copyrights [online] available at: <http://www.globaltimes.cn/content/981369.shtml> [last accessed June 1st 2017].

and that Shengda is the exclusive licensee of these works.<sup>25</sup> The operator of the Novel 520 website was punished by the local copyright department and faced legal liabilities according to judicial decision.

Piracy is still a serious problem and harmful to the industry. Piracy of Internet literature has led to 7.7 billion yuan (\$1.18 billion) in lost subscriptions last year, according to the 2015 White Paper on China Internet Literature Copyright Protection produced by consulting company iResearch.

Some people think that pirated works have attracted a lot of users, enlarged the scale of the market and led the whole industry to prosperity. However, it has only led to the prosperity of businesses entering the market offering fakes. Since the cost for users is almost zero to use these materials, the users' adhesiveness and activeness will be quite low. According to the statistics of the Chinese Internet Information Centre (中国互联网络信息中心), there were 285 million Internet literature users in June 2015, which was 9.18 million fewer than in December 2014.<sup>26</sup>

Of course, from the authors' side, some authors may want their works to be spread as widely as possible. Thus, they actually do not care about piracy. They may think that the following development will bring them more profit. That is also the idea of some Internet companies. However, the researchers think that the authors have a right to their works, both from a moral and capitalizing view. Only the authors can decide how to take care of their property. If they want their works to be spread widely, they can attach a statement that gives up or limits their copyright, like the statements in the

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<sup>25</sup>The Central People's Government of the People's Republic of China (2012) The Copyright Bureau has Published Ten Fighting Copyright Infringing Cases in 2011 (国家版权局公布 2011 年度查处侵权盗版十大案件) [online] available at: [http://www.gov.cn/gzdt/2012-07/10/content\\_2180028.htm](http://www.gov.cn/gzdt/2012-07/10/content_2180028.htm) [last accessed May 21st 2017].

<sup>26</sup> iResearch (2016) The White Paper of Internet Literature Copyright Protection (2015) [online] available at: <http://www.iresearch.com.cn/report/2515.html> [last accessed June 2nd 2017], at p.46.

Creative Commons<sup>27</sup> system. If they do not do that, others have no right to harm the authors' copyright.

From the readers' side, it should be pointed out that people in China are still used to downloading materials to their local devices. As mentioned before, the fee for mobile traffic is comparatively high in China. However, many websites do not offer downloading services because after downloading they cannot track the users reading. Therefore, people are often looking for unauthorized versions that other readers have shared on the Internet and will download them to their local device. Moreover, there are always people who would like to share things on the Internet; some people even believe that as all the knowledge shall be shared anyway they can even scan paper books to make them available on the Internet. These are the reasons for widespread pirated copies, besides people's unwillingness to pay for things on the Internet. The Net Sword Campaign in 2016 launched by the NCAC is aimed at fighting the piracy of Internet literature and the result remains to be seen.<sup>28</sup>

### **Fan fiction**

A novel serialized online since 2001, written by the Jiangnan (depicted in Figure 7), is a fan fiction based on *kongfu* novels by a famous Chinese novelist, Jinyong, and uses the same characters' names such as 'Qiao Feng(乔峰)' 'Ling Huchong(令狐冲)'. The new novel tells a common story of college life, which took place in 'Bianjing University', with Peking University as a template. However, according to Jiangnan, regardless of the names of characters in the story, they are no longer the heroes or swordswomen that people are familiar with (from Jinyong's story) and are instead closer to those young friends amongst them, which results in a whole new story.

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<sup>27</sup> Creative Commons (date unknown) Creative Commons [online] available at: <https://creativecommons.org> [last accessed June 2nd, 2017].

<sup>28</sup> [people.cn](http://media.people.com.cn/n1/2016/0728/c40606-28592300.html) (2016) "剑网 2016"成广大权利人福音 整治网络版权生态 [online] available at: <http://media.people.com.cn/n1/2016/0728/c40606-28592300.html> [last accessed June 2nd 2017].

In 2016, Jinyong sued Jiangnan for copyright infringement.<sup>29</sup> He claimed that there were too many characters' names which originated from his novels, which have earned great reputation throughout China. Furthermore, the character features and relationships were also similar. As such, there was an obvious correlation between these two works, suggesting Jiangnan infringed Jinyong's rights and benefits. Jiangnan argued that original works as protected by copyright law do not include characters' names. They also argued that the characters' relationships, personalities, backgrounds and plots of his work were different from Jinyong's works and thus not infringing any existing works.



Figure 7: The novel of Jiangnan

In this context the question arises as to whether fictional characters should be protected by copyright law. This is a difficult issue for online fan fiction and needs to be solved soon. With the development of the digital copyright industry, fan works including

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<sup>29</sup> 章程 (Cheng Zhang) and 罗文君 (Wenjun Luo) (2017) The Court Trial of the Copyright Infringement Case of Jin Yong vs Jiang Nan has begun and Jin Yong Asks for a remedy of 5 million Yuan (金庸状告江南侵权案今开审, 索赔 500 万元 [online] available at: <http://www.chinacourt.org/article/detail/2017/04/id/2823560.shtml> [last accessed May 20th 2017].

fiction, cartoons, movies, games and so on will make big profits.<sup>30</sup> This may influence the market of original works and may be seen as ‘free-riding’ behaviour. The result of this meaningful case remains to be seen.

### **Content similarity**

Content is the soul of Internet literature, and this report considers content problems to be the most serious ones that the industry has to face. Nowadays, the content on websites are quite similar. Almost all of the Internet literature websites have all kinds of literary works. As for the digitalized works, many big websites have got the authorization of large databases. The users of these websites can choose any website to read, and so lack loyalty to the websites.

Since there are nearly no limits for authors to register in any websites, many authors choose to post their works in different websites to attract as many readers as possible.

Another reason for the content similarity is the result of plagiarism. In reading full-length Internet novels, the readers can always find some plots or descriptions that look quite familiar. These ideas or descriptions may be copied from other works. Since there is little strict moral criticism in the virtual space, there are many similar works on the Internet. Furthermore, and as mentioned before, writing tools are quite popular. The plots and descriptions that writing tools make up will of course then look similar to a certain extent.

To survive the fierce competition, websites need to develop their own features. Jinjiang is one website that has distinct characteristics. Its target users are women readers. Thus, there are literature works attracting women readers and the website has become popular among them. This is why Jinjiang is in the third group of the Internet literature websites (mentioned in the third part of this literature report), though it is not affiliated to any of BAT.

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<sup>30</sup> Liu, G. and Wei, F. (2017) The research on copyright protection of fictitious characters -- in the view of the humanities, the intellectual property rights.

## **Content operation**

Content operation in this part is defined as the operation of thousands of pieces of works, not that of a single one. Content operation is also crucial to the websites. Questions as to how to operate big databases and big data is also a big problem.

Rongshuxia's declination is an example of the content operation failure. It is one of the earliest websites for Internet literature, established in 1997. Rongshu (榕树) in Chinese refers to banyan trees. It was quite famous in the first ten years of the 21<sup>st</sup> century. Many famous Internet literature writers, like Li Xunhuan (李寻欢), Jinhezai (今何在), and Annebaby (安妮宝贝), were active in Rongshuxia. It also attracted many readers who loved literature. However, it has declined in the last few years. There are different explanations for its declination. One explanation mentioned by many people is that, after its acquisition by Bertelsmann, it focused on charging for every single novel and didn't care for attracting good writers to contribute their works. As a result, it gradually lost its readers, and that resulted in fewer good writers, and then comes the vicious circle. It's a pity to see such a famous website decline. Rongshuxia is now affiliated to CRL, and CRL wants some changes. It remains to be seen whether there will be any improvement.

## **Contract payment issues**

As mentioned before, compared to companies, most Internet literature authors may be in a weak bargaining position. The interviewees in the Internet literature companies refused to tell us about payment issues, but it is reasonable to think that the authors may not get much payment. This was verified by posts in some Internet forums.

In the meantime, to get unique content to win over the readers, the Internet literature websites need to get the exclusive authorization of some well-known authors at high prices. There are thousands of people writing Internet literature these days, but how to find and attract good writers is still a big problem for the websites.



## **Supervisory review problems**

In our interviews, some editors mentioned that one problem is the screening of sensitive words. Content screening is required by the authorities. However, Chinese characters are different from the phonetic writing in English. Each single Chinese character has its own meaning, and while several characters together make a word, this may have a different meaning than a single character within it. Sometimes, a four-character word contains a character which is sexually sensitive. For example, “水乳交融” is a proverb in Chinese that means “harmony”, however the second character 乳 on its own means woman’s breasts. The banned-word searching system would automatically unpick the character and replace it with a blank square box . The editors commented that this is doing no good to the quality of the works. In particular, if there are too many of these blank square boxes in an article the meaning of the sentence will get lost.

Though the publication system is strictly under inspection by the authorities, it is “quite easy” (according to the editors mentioned above) to publish a book if there is no such sensitive content involved. For that, they have provided tips and apps to authors about how to bypass and/or avoid the problem.

## **Legal protection**

With the explosive increase of online literature in the Internet age, there has emerged various issues concerning the protection of Internet copyright. The Chinese government has taken infringement seriously and pushed hard for the legal industry and professionals to study the problems properly. As noted by Li Shunde from the Institute of Law at the Chinese Academy of Social Sciences told the People’s Daily Overseas Edition:

“Infringement of Internet literature copyright is a worldwide phenomenon, not just limited to China. As Internet technology improves, it becomes a bigger problem for the world when it comes to how to solve piracy.”

According to him, with established laws and regulations, authors’ copyright and benefits can be protected by copyright law and anti-unfair competition laws in China.

## **Copyright law**

Copyright, along with other supporting elements such as content providers, content distributors, user device manufacturers, networks, marketing support, and electronic payment, are part of digital publishing in general.<sup>31</sup> How to obtain, manage and protect digital copyright is a crucial task for all online literary websites.

China's 2006 Action Plan on Intellectual Property Right Protection states that efforts will be focused on strengthening the justice on intellectual property right cases, ensuring the construction of a national innovation system, and lawfully protecting the intellectual property rights on the network. It can be seen that China's highest judicial administration organs have paid serious attention to the network copyright protection (including digital copyright).

### **1. Traditional copyright protection**

The laws and regulations concerning Internet copyright mainly include :

- 1) Copyright Law;
- 2) Regulations on Implementation of the Copyright Law;
- 3) Regulations on Protection for the Right to Network Dissemination of Information ;
- 4) Interpretations of the Supreme Court on Several Issues concerning the Application of Law in the Trial of Cases in relation to Copyright Disputes over Computer Network ;
- 5) Regulations on Protection for Computer Software;

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<sup>31</sup> Tian, X., & Martin, B. (2013) Reading the signs: What is really happening with digital publishing in china? Publishing Research Quarterly, 29(3), pp 252-270.

- 6) Measures for Security Protection Administration of the International Networking of Computer Information Network;
- 7) Provisions on the Implementation of the International Copyright Treaties;
- 8) Regulations on the Collective Management of Copyright.

Chinese Copyright Law lists all rights that authors can own in Article 10, including:

- (1) the right of publication, that is, the right to decide whether to make a work available to the public;
- (2) the right of authorship, that is, the right to claim authorship in respect of, and to have the author's name mentioned in connection with, a work;
- (3) the right of revision, that is, the right to revise or authorize others to revise a work;
- (4) the right of integrity, that is, the right to protect a work against distortion and mutilation;
- (5) the right of reproduction, that is, the right to produce one or more copies of a work by printing, photocopying, lithographing, making a sound recording or video recording, duplicating a recording, or duplicating a photographic work, or by other means;
- (6) the right of distribution, that is, the right to provide the original copy or reproductions of a work to the public by selling or donating;
- (7) the right of rental, that is, the right to authorize others to use temporarily a cinematographic work or a work created by a process analogous to cinematography, or computer software, except where the software itself is not the essential object of the rental;
- (8) the right of exhibition, that is, the right to publicly display the original copy or reproductions of a work of the fine arts or of a photographic work;
- (9) the right of performance, that is, the right to publicly perform a work, and to publicly communicate the performance of a work by any means or process;
- (10) the right of presentation, that is, the right to publicly present a work of the fine arts, a photographic work, a cinematographic work, a work created by a process

analogous to cinematography, or other works, by projector, slide projector or any other technology or instrument;

(11) the right of broadcasting, that is, the right to broadcast a work or disseminate it to the public by any wireless means, to communicate the broadcast of a work to the public by wire or by rebroadcasting, and to publicly communicate the broadcast of a work by loudspeaker or any other analogous instrument transmitting signs, sounds or images;

(12) the right of communication through information network, that is, the right to make a work available to the public by wire or by wireless means, so that people may have access to the work from a place and at a time individually chosen by them;

(13) the right of cinematography, that is, the right to fix an adaptation of a work in a medium by cinematography or a process analogous to cinematography;

(14) the right of adaptation, that is, the right to change a work into a new one with originality;

(15) the right of translation, that is, the right to change the language in which the work is written into another language;

(16) the right of compilation, that is, the right to compile by selection or arrangement preexisting works or passages therefrom into a new work; and

(17) other rights to be enjoyed by copyright owners.

Copyright owners may authorize others' exercising of the rights provided for in Subparagraph (5) through Subparagraph (17) of the preceding paragraph and receive remuneration in accordance with the terms of contracts or the relevant provisions in this Law.

A typical case associated with online literature copyright protection is Shengda vs Baidu. In 2010, Shanda Literature ("Shanda") sued Baidu over pirated literature works available on their website and its refusal to delete such works upon the complaint from Shanda. To Shanda's claim, Baidu replied that it had removed the infringing parts, whilst other parts were examined and found no infringement, and as such it shall take no liability.

Baidu was sentenced to take the liability in first instance, and then appealed but withdrew the suit at the end. Thus, Baidu shall compensate Shanda RMB 500,000 yuan by the effective decision of the hearing.

There are many literature fans in China, however due to the rigorous examination system of publishing, many talented writers choose to publicize their works through the Internet. Therefore, it has brought up many online platforms for literature, and Shanda takes the leading position among these websites. In the case mentioned above, though Shanda finally won the lawsuit, it took almost one year for the hearing, and the compensation is not equivalent to the registered capital of Baidu; this highlights the copyright dilemma of online literature.

## **2. Digital copyright protection**

Focusing on the development of digital copyright judicial protection, along with the rapid growth of the Internet and people taking more notice on rights issues, the number of Internet infringement cases judged by courts of the Peoples Republic of China has been continuously increasing in recent years. However, simultaneously complicated new types of cases keep arising, especially in the more developed areas of online information services. The digital copyright dissensions occurred as this whole area of content, which was created for and delivered over the Internet, increased dramatically. Many cultural celebrities and famous lawyers stood at the battlefield of digital copyright protection as plaintiffs.

The Regulation on the Protection of the Right to Communicate Works to the Public over Information Networks (2013 Revision) is formulated, in accordance with the “Copyright Law of the People's Republic of China” for the purpose of protecting the right to communicate works to the public over information networks for copyright owners, performers, and producers of audio-visual works, and of encouraging the creation and dissemination of works which contribute to the construction of a socialist spiritual and material civilization.

Where a network user or network service provider provides, on an information network, any work, performance, or audio or video recording which a right holder enjoys the right to disseminate on information networks without the permission of the copyright holder, the people's court shall determine that the network user or network

service provider has infringed upon the right of dissemination on information networks, except as otherwise provided for by laws and administrative regulations. If the work, performance, audio or video recording is placed on an information network by means such as uploading to a network server, file sharing settings or using file sharing software, allowing the general public to download, browse or otherwise obtain the work, performance, audio or video recording at the time and place chosen individually, the people's court shall determine that the network user or network service provider has committed the act of provision as mentioned in the preceding paragraph.

Generally speaking, the right of an owner of digital media to disseminate information is protected under the Copyright Law and the Regulations on Protection of the Right to Network Dissemination of Information (the “Regulations”), which was last amended in 2013. In this digital age, where technology on information sharing is readily available and easy to master, infringement of original works often occurs in cyberspace. Illegal sharing in China is particularly prevalent - numerous hosting websites and search engines enable users with access to storage, sharing, and means to locate copies of creative works of others. The copyright holders of creative works have found a way to curb infringement by establishing liability on Internet service providers (ISPs) who allow unauthorized links of copyright protected material to be made available to its users.

In 2016, the Notice of the General Office of the National Copyright Administration on Strengthening the Administration of copyrights in online literature was issued in order to strengthen the administration of copyrights in online literature and further regulate the order of copyrights in online literature. According to this notice, any organization or individual that disseminates literary works on information networks or provides network services for users to disseminate literary works on information networks, shall comply with copyright laws and regulations, respect the lawful rights of right holders, and maintain the order of copyrights in online literature. ISPs that provide literary works on information networks and relevant network services shall strengthen copyright oversight, establish effective mechanisms for dealing with infringing works, and perform their obligations to protect copyrights in online literature in accordance with the law.

ISPs that provide literary works on information networks shall perform the duties of copyright review and care in respect of the disseminated literary works in accordance

with the law, and without the permission of the right holders, shall not disseminate their literary works except as otherwise provided for by laws and regulations. ISPs that provide literary works on information networks shall establish copyright complaint mechanisms to accept complaints from right holders and handle the lawful claims of right holders in a timely manner in accordance with the law. ISPs that provide search engines, browsers, BBSs, network disks, app stores, micro blogs, WeChat, and other services shall, without the permission of the right holders, neither provide, nor provide in a disguised form by technical means, their literary works; and shall not facilitate users' dissemination of literary works without the permission of the right holders. ISPs that provide search engines, browsers, BBSs, network disks, app stores, post bars, micro blogs, WeChat, and other services shall state, in conspicuous positions of their service platforms, the methods of notification and complaint from the right holders, accept notifications and complaints from the right holders in a timely manner, and delete the infringing works and remove relevant links within 24 hours after receiving notifications and complaints from the right holders.

ISPs that provide search engines, browsers, and other services shall not disseminate literary works without the permission of the right holders through directed search or link or by means such as editing or aggregation. ISPs that provide post bars, BBSs, app stores, and other services shall review and retain the names, accounts, network addresses, and contact methods of the bar operators, BBS operators, and application program developers and other relevant information.

ISPs that provide services such as post bars and BBSs named after literary works or authors shall require the bar operators and BBS operators to confirm that the literary works provided by the users are provided by the right holders or with the permission of the right holders. ISPs that provide information storage space services shall comply with the Notice on Regulating the Copyright Order of Network Disk Services issued by the National Copyright Administration, actively screen or delete infringing literary works, and prevent users from uploading, storing, and sharing infringing literary works. The National Copyright Administration will establish a "black and white lists system" for supervision of copyrights in online literature and publish in due time a "black list" of ISPs involved in online literature infringement and piracy and a "white list" for priority online literature supervision. The copyright administrative agencies at all levels shall strengthen law enforcement on copyrights in online literature, investigate and

punish online literature infringement and piracy in accordance with the law, and maintain the order of copyrights in online literature.

### 3. Anti - unfair competition law (“反不正当竞争法”).

Copyright of online literature can also be protected by the Anti-Unfair Competition Law in China, which can offer overall protection and relief, so as to safeguard the healthy development of the copyright market economy, encourage and protect fair copyright market competition, prohibit unfair competition, and safeguard the legal rights and interests of managers. Objects of copyright in China are limited according to related rules and regulations detailed in Figure 8 below.

Protectable by copyright	Not protectable by copyright
Books, journal articles, short stories, poems, song lyrics	Names, titles, short phrases, slogans, etc.
Songs, musical scores, notated music, other music, sound recordings	Ideas, principles, concepts
Plays, television programs, radio and film scripts, dance, acrobatics, choreography, quyi	Ideas, concepts, processing methods, algorithms, operational designs and methods
Drawings, illustrations, images, photographs, paintings, calligraphy, sculptures	Underlying news content of factual happenings or government publications
Computer programs, games, other software, websites, emails	Pre-existing material
Original and aesthetic aspects of industrial and graphic designs, architectural drawings, and 2D and 3D applied art, models, architectural buildings and structures	Content already in the public domain
Databases as to the selection of content	
Original expressions to convey facts or news, layouts and compilations of select news articles or government publications	

Figure 8: Objects of copyright in China<sup>32</sup>

According to Article 3 in Chinese Copyright law, for the purposes of this law, the term “works” includes, among other things, works of literature, art, natural sciences, social sciences, engineering and technology, which are created in any of the following forms: (1) written works; (2) oral works; (3) musical, dramatic, quyi, choreographic and acrobatic works; (4) works of the fine arts and architecture; (5) photographic works; (6) cinematographic works and works created by a process analogous to cinematography; (7) graphic works such as drawings of engineering designs and product

<sup>32</sup> China IPR SME Helpdesk (2012) Copyright Protection in China A Guide for European SMEs [online] available at: [http://www.china-iprhelpdesk.eu/sites/all/docs/publications/EN\\_Copy-right\\_guide\\_Aug\\_2010.pdf](http://www.china-iprhelpdesk.eu/sites/all/docs/publications/EN_Copy-right_guide_Aug_2010.pdf) [last accessed June 1, 2017].



designs, maps and sketches, and model works; (8) computer software; and (9) other works as provided for in laws and administrative regulations.

As a result, sometimes right owners' benefits, especially market interests, can be damaged by some unfair or unreasonable actions of competitors, but they are unable to turn to copyright law, which only protect certain types of property rights. The Anti-Unfair Competition Law will provide them with complementary legal protection.

### **International protection standard**

How to build an effective digital copyright protection system is an important issue, not just for developing countries like China, but also for Western developed countries. As a developing country where knowledge and information resources are somewhat inadequate, an innovative strategy is required by China's online literature market in the new round of copyright reform rather than simply imitative legislative models of Western countries.<sup>33</sup> The first thing to understand is that there is no such thing as an "international copyright" that will protect an author's works throughout the world with a single registration (unlike the multi-jurisdictional protection provided by a patent filed under the Patent Cooperation Treaty). Copyright law is "territorial" and national in scope. Regardless of where the author lives or where the work was first published, the copyright protection afforded to a work depends on the national laws of the country in which the author seeks protection. That concept has an important implication for Chinese authors.<sup>34</sup> Regardless of the protection an author has secured for the work in China, acts of infringement that occur outside of the jurisdiction of China cannot be addressed under Chinese Copyright Law because copyright laws do not have any extraterritorial operation. However, some world organizations have set

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<sup>33</sup> Hua, J. (2014) Rethinking copyright reform: Should China imitate or innovate? *Journal of International Commercial Law & Technology*, 9(2), pp 94-104.

<sup>34</sup> Denniston, M.S. (2012) International Copyright Protection: How Does It Work? [online] available at: <https://www.bradley.com/insights/publications/2012/03/international-copyright-protection-how-does-it-w> [last accessed: June 2<sup>nd</sup> 2017].

standards for copyright protection, in order to enhance copyright protection and strengthen international cooperation.

As part of its policy of opening economic markets and promoting economic development and trade, China officially joined the World Intellectual Property Organization (WIPO) in 1980 and the Paris Convention for the protection of industrial property in 1984. In support of the changing policies, China implemented and revised a number of intellectual property laws, including the 1982 Trademark Law, the 1984 Patent Law and the 1990 Copyright Law<sup>35</sup>. The 1990 Copyright Law implements two foundational international intellectual property agreements: the Berne Convention for the Protection of Literary and Artistic Works and the Universal Copyright Convention.<sup>36</sup> In 2001, the year China became a member of the World Trade Organisation, the Copyright Law was revised to not only be in closer compliance with the provisions of Trade-Related Aspects of Intellectual Property Rights (TRIPS), but to also include “network” copyright protection not addressed in TRIPS.

TRIPS is one of the most important international treaties that China has signed. It established that copyright protection shall extend to expressions and not to ideas, procedures, methods of operation or mathematical concepts as such. Furthermore, whenever the term of protection of a work, other than a photographic work or a work of applied art, is calculated on a basis other than the life of a natural person, such term shall be no less than 50 years from the end of the calendar year of authorized publication, or, failing such authorized publication within 50 years from the making of the work, 50 years from the end of the calendar year of making.

### **Copyright enforcement**

In China, the two most common ways to enforce copyright are through administrative and judicial routes. First, the right owner needs to confirm any suspected infringement and gather and preserve evidence. For example, if suspected infringing goods are

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<sup>35</sup> State Intellectual Property Office of China, 1994 June

<sup>36</sup> Liu, T. and Bates, B.J. (2008) Copyright in China: Implementation Issues in Electronic Media, IAMCR conference, “Media and Global Divides,” Stockholm, Sweden, July 2008.

encountered at a trade show, the right owner should attempt to gather business cards, take photographs and ask questions about the source of the goods. Where suspected infringement is discovered on the Internet, the company needs to determine the identity of the seller or user of the copyrighted work and the ISP network on which the infringing content is stored.

While administrative enforcement through the NCAC is often a faster and less expensive alternative to judicial proceedings, the NCAC is not empowered to issue damages. It can however, order infringers to stop their activities, confiscate illegal income, confiscate and destroy pirated goods and the equipment and materials used to manufacture them, and issue fines. Meanwhile, the People's Courts hear judicial enforcement cases. Companies may request the court for preliminary or permanent injunctions, to preserve evidence of infringement and property of the defendant and to order the defendant to destroy any infringing goods or instruments of infringement, pay damages, and make a public apology.

If damages can be proved with reasonable certainty, there is no limit on the amount of damages a court can award. If actual losses or illegal income of the infringer cannot be determined, the court may order the defendant to pay compensation up to a maximum of approximately EUR 60,000. In most cases, damage awards for copyright infringement have been relatively low.

In minor cases or as a first-step to enforcing copyright in serious cases, the company may send a cease and desist letter to the suspected infringer requesting the infringer to stop its activities. Such a letter should identify the copyrighted work, ownership of the copyright and the alleged infringing activity. The letter may also include a demand to immediately cease all infringing acts under threat of litigation or further legal action, but legal advice should be obtained in advance to determine whether it is appropriate.

## **Classical cases**

### 1. Case of infringement upon copyright of written works by www.520xs.com<sup>37</sup>

In September 2010, Cloudary Co., Ltd. informed the copyright Bureau of Xuzhou City that, without the permission of the copyright owners, www.520xs.com had collected and duplicated, by network technology means, a large amount of written works whose exclusive right to network dissemination of information was owned by www.qidian.com operated by Cloudary Co., Ltd, and uploaded them on www.520xs.com.

The copyright Bureau of Xuzhou City conducted a preliminary investigation thereon and then transferred the case to the public security authority. It was found that from March 2009 through to the exposure of this case, www.520xs.com has obtained illegal earnings of 2,669,938.49 yuan in total by means of publicizing paid advertisements on its website.

On January 18, 2011, in accordance with Article 48 of the copyright Law and Article 3 of the Regulation for the Implementation of Copyright Law, the copyright Bureau of Xuzhou City rendered an administrative penalty decision, ordering www.520xs.com to stop its infringing acts. Its illegal gains were confiscated, as well as its tools and equipment for producing infringing copies.

On December 12, 2011, in the first instance, the Intermediate People's Court of Xuzhou City, in accordance with Article 217 of the Criminal Law: sentenced Jin Junjie to a fixed-term imprisonment of four years and imposed a fine of three million yuan for the crime of infringement upon copyright committed thereby; sentenced Wang Hui to a fixed-term imprisonment of three years with a probation of four years and imposed a fine of 2.7 million yuan for the crime of infringement upon copyright committed thereby; sentenced Guan Zhichao to a fixed-term imprisonment of two years and six months with a probation of three years, and imposed a fine of 100,000 yuan for the crime of infringement upon copyright committed thereby; sentenced Liu Jun to a fixed-term imprisonment of two years with a probation of three years, and imposed a fine of

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<sup>37</sup> Law Info China (2012) Notice of the National Copyright Administration on Issuing Ten Cases of Copyright Infringement and Piracy Handled in 2011 [online] available at: <http://www.law-infochina.com/display.aspx?id=14711&lib=law> [last accessed June 2nd 2017].

80,000 yuan for the crime of infringement upon copyright committed thereby; sentenced Tang Yong to a fixed-term imprisonment of one year and two months with a probation of two years, and imposed a fine of 50,000 yuan for the crime of infringement upon copyright committed thereby; sentenced Hu Xiong to a fixed-term imprisonment of one year and two months and imposed a fine of 50,000 yuan for the crime of infringement upon copyright committed thereby; sentenced Zheng Chuanping to a fixed-term imprisonment of one year with a probation of two years and imposed a fine of 30,000 yuan for the crime of infringement upon copyright committed thereby; and sentenced Zhang Jiankang to a fixed-term imprisonment of one year and imposed a fine of 30,000 yuan for the crime of infringement upon copyright committed thereby. Illegal gains of 2,669,938.49 yuan were also recovered, which was turned over to the State Treasury.

As a model case of infringement upon copyright of online literature, this case has played a good exemplary role in the application of law, and penalties for cases of copyright infringement and piracy of online literature. It also fully demonstrated the important function of the connection between copyright administrative law enforcement and criminal justice and indicated the important position of the “dual-track system” in China's copyright protection. Furthermore, this case demonstrated the resolution of the Chinese Government in cracking down on acts of online copyright infringement and piracy.

## 2. Case of "Wind and Rain Literature Website" copyright infringement<sup>38</sup>

In October 2015, the Department of Culture, Radio, Film, TV, Press and Publication of Zhangjiagang, Jiangsu Province, associated with security network police, investigated the "Wind and Rain Literature Website" which was suspected of infringement of copyright cases based on the right owner's report. According to the investigation, from 2013 to 2015, without the permission of the copyright owner, Zhang published and spread the "Tycoon Legend" and other novels in the self-built "Wind and Rain

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<sup>38</sup> Author Unknown (2017) Ten Fighting Copyright Infringing Cases of 2016 have been published (2016 年度全国打击侵权盗版十大案件公布) [online] available at: [http://www.iprchn.com/cip-news/news\\_content.aspx?newsId=99831](http://www.iprchn.com/cip-news/news_content.aspx?newsId=99831) [last accessed June 1st 2017].

Literature Website ", and published advertisements through the website, earning illegal profits from Baidu Advertising Alliance. This illegal turnover amounted up to 667,000 yuan. On December 16, 2016, the People's Court in Zhangjiagang City, Jiangsu Province, made a criminal decision: Zhang committed infringement of copyright, and would be sentenced to a three year and three-month imprisonment, and a fine of RMB 340,000 yuan.

The National Copyright Administration and four other departments jointly launched the "Jian Wang 2016" special action, with network literature piracy remediation as its key task. This case belongs to the "Jian Wang 2016" special action against online literature infringement and stands for administrative criminal judicial enforcement collaboration to combat infringement and piracy.

### 3. Baidu anti-piracy campaign

In 2016, Chinese tech giant Baidu closed a number of its Internet forums about online novels as part of an anti-piracy campaign. According to a statement by Baidu social media platform Baidu Tieba, an anti-piracy campaign to "better protect authorized copies and safeguard authors' rights" is "in full swing" on Tieba's online forums. Claiming to hold a "zero-tolerance attitude" toward piracy, the company planned to temporarily shut down all Internet forums under the category of literature in order to check content for intellectual property theft.

Regardless of Baidu's intentions in stepping up anti-piracy efforts, the move won recognition from the electronic publishing industry as well as from many observers of intellectual property rights protection. Calling the move "of positive significance," Xu Xinming, a Beijing-based lawyer specializing in intellectual property rights, told the Global Times that such an anti-piracy campaign is long overdue, though it is not too late to carry it out.

In 2011, Baidu was found guilty of copyright infringement in a lawsuit filed by literary website qidian.com and was ordered to pay the plaintiff about 550,000 yuan (\$84,000) for infringing copyrights for five novels. Pirated literature caused paid reading services 7.77 billion yuan in losses in 2014; news site cnr.cn reported that pirated works on Tieba accounted for 64.3 percent of all online literature piracy. Since the

end of April 2016, the tech giant has been battered by so many waves of public outcry over a scandal involving its paid listing service that the government investigated the scandal and later ordered the company to overhaul its policies.

Such a campaign is not likely to make a fundamental impact on piracy on Baidu Tieba, Xu said. Instead, he suggested that the company should formulate a long-term mechanism to monitor copyright infringement.

### **Summary**

The Internet literature industry is facing many problems. For business operators, both the content similarity problem and content operation problem are crucial to their business. Piracy also does a huge harm to them.

For writers though, some of them may want to get famous by spreading their works. They have the right to get revenue from their works. Payment problems with website operators, piracy, and supervisory problems may affect their creativity.

For readers, they can choose from any website since the content on websites are similar. Since authors' rights are not fully protected, in future there may be fewer good works, and readers may have less good content to read. That is a loss to the whole civil society and the reader community equally.

As for copyright protection of online literature, the Chinese government has attached high importance to intellectual property protection, including digital copyright protection in China. Currently, the main measures to protect digital copyright include judicial protection, administrative protection, social protection and technical protection. During the implementation, the Chinese government keeps improving and seeking more effective solutions.



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